

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

DELIA G. MORENO,

Plaintiff,

v.

**CAROLYN W. COLVIN,
Acting Commissioner of
Social Security,**

Defendant.

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Case No. 15-cv-141-RAW-KEW

**OPINION AND ORDER AWARDING
ATTORNEY’S FEES TO THE PLAINTIFF UNDER THE EAJA**

Plaintiff was the prevailing party in this action under the Social Security Act. Plaintiff filed a request for attorney fees under the Equal Access to Justice Act [Docket No. 19]. The parties have now filed a Stipulated Motion for Award of Attorney Fees Under the Equal Access to Justice Act [Docket No. 21], indicating that the parties have stipulated to an attorney fee in the amount of \$3,200.00, a reduction of \$485.30 from the amount originally requested by Plaintiff.

Upon review of the record herein, the Court finds that said amount is reasonable and that the Commissioner should be ordered to pay it to the Plaintiff as the prevailing party herein. *See* 28 U.S.C. § 2412(d)(1)(A) (“Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses . . . incurred by that party in any civil action (other than cases sounding in tort)[.]”); *see also Manning v. Astrue*, 510 F.3d 1246, 1251 (10th Cir. 2007) (“The EAJA therefore permits attorney’s fees reimbursement to financially eligible prevailing parties, who make a proper application, and not to their attorneys.”).

Accordingly, IT IS ORDERED that the Stipulated Motion for Award of Attorney Fees Under the Equal Access to Justice Act [Docket No. 21] is hereby GRANTED, and Plaintiff's Application for an Award of Attorneys' Fees [Docket No. 19] is moot. The Government is hereby ordered to pay the above-referenced amount by a check made out to Plaintiff but delivered to Plaintiff's attorney. IT IS FURTHER ORDERED that if the Plaintiff's attorney is subsequently awarded any fees pursuant to 42 U.S.C. § 406(b)(1), said attorney shall refund the smaller amount of such fees to the Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

DATED this 14th day of December, 2016.

A handwritten signature in dark ink, reading "Ronald A. White". The signature is written in a cursive, flowing style. The first name "Ronald" is written with a large, prominent "R". The middle initial "A." is written in a smaller, more compact script. The last name "White" is written with a large, prominent "W". The signature is positioned above a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma

SUBMITTED AND APPROVED BY:

Electronically submitted 12/12/16

NARISSA C. WEBBER

Special Assistant United States Attorney

Electronically approved 12/12/16

SUSAN JONES

Attorney for Plaintiff